



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on January 17, 2007

Date of Meeting: December 12, 2006

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 6:30 p.m. on Tuesday, December 12, 2006 all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Nina J. Trasoff	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:

Carol W. West	Vice Mayor, Council Member Ward 2
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Staff Members Present:

Mike Letcher	Deputy City Manager
Michael Rankin	City Attorney
Kathleen S. Detrick	City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Chaplain Jeff Mockbee, Tucson Police Department after which the pledge of allegiance was presented by the entire assembly.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 683, dated December 12, 2006 would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Council Member Trasoff announced Governor Napolitano had named Jan Leshner of Tucson as the Director of the Department of Commerce. She offered her congratulations to Jan Leshner on her appointment.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 684 dated December 12, 2006 would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

There was no report.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 686, dated December 12, 2006 would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Applications

New License(s)

1. Lovin' Spoonfuls, Ward 3
2990 N. Campbell Avenue, Suite 120
Applicant: Margaret Ellen Raisglid
Series 12, City 114-06
Action must be taken by: January 4, 2007
Staff has indicated the applicant is in compliance with city requirements.

2. Chile Con Sol, Ward 6
1628 E. 6th St.
Applicant: Maritza Cruz
Series 7, City 115-06
Action must be taken by: December 31, 2006
Development Services Department has indicated the applicant is not in compliance with city requirements.

Kathleen S. Detrick, City Clerk, announced under Item 5b2 the applicant, Chile Con Sol, had requested their application be continued for one week to December 19, 2006 so that they could continue to meet with the Development Services Department and see if they could resolve outstanding issues.

3. Mulligans Sports Grill, Ward 4
9403 E. Golf Links Rd.
Applicant: Derrick Stephen deNomme
Series 12, City 116-06
Action must be taken by: January 5, 2007
Staff has indicated the applicant is in compliance with city requirements.
4. FastLane Market/Chevron, Ward 5
1979 E. Ajo Way
Applicant: Lee Adrian Jestings
Series 10, City 117-06
Action must be taken by: January 6, 2007
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event

NOTE: There are no applications for special events scheduled for this meeting.

d. Agent Change

NOTE: There are no agent changes scheduled for this meeting.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor West Absent/excused) to forward liquor license applications 5b1, 5b3 and 5b4 to the Arizona State Liquor Board with a recommendation for approval and to continue item 5b2 to the December 19, 2006 meeting.

6. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for any items scheduled for a public hearing. Speakers would be limited to three-minute presentations.

- a. State Representative Ted Downing spoke about the mail ballot election item and his opposition to the City of Tucson conducting an all mail ballot election in 2007.
- b. Robert Reus spoke about the mail ballot election item and said there were other ways to accommodate disabled voters instead of moving to all mail ballot elections.
- c. Michael Toney spoke about the arena project and said that it would be a better use of Rio Nuevo funds than the University of Arizona Science Center.
- d. Russ Dove spoke about the mail ballot election item and said he did not support an all mail ballot.

7. **CONSENT AGENDA – ITEMS A THROUGH L**

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

- A. FINAL PLAT: (S05-064) HOME DEPOT RETAIL CENTER SUBDIVISION, LOTS 1 TO 11
 - 1. Report from City Manager DEC12-06-687 WARD 3
 - 2. The City Manager recommends that the Mayor and Council approve the amended final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- B. ASSURANCE AGREEMENT: (S04-148) BONILLAS PARKWAY SUBDIVISION, LOTS 1 TO 5, AND COMMON AREAS “A” AND “B”
 - 1. Report from City Manager DEC12-06-688 WARD 5
 - 2. Resolution No. 20525 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S04-148 of a final plat for the Bonillas Parkway Subdivision, Lots 1 to 5 and Common Areas “A” and “B”; and declaring an emergency.
- C. FINAL PLAT: (S04-148) BONILLAS PARKWAY SUBDIVISION, LOTS 1 TO 5, AND COMMON AREAS “A” AND “B”
 - 1. Report from City Manager DEC12-06-689 WARD 5

2. Staff recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- D. CITY CLERK: DONATION OF RECORDS TO THE ARIZONA STATE LIBRARY, ARCHIVES, AND PUBLIC RECORDS DIVISION
1. Report from City Manager DEC12-06-690 CITY-WIDE
- E. REAL PROPERTY: DEDICATION AND SALE OF SURPLUS REAL PROPERTY LOCATED ON NORTH COUNTRY CLUB ROAD TO BSH INVESTMENTS, LLC., AND RESCINDING ORDINANCE 10329 DATED OCTOBER 17, 2006
1. Report from City Manager DEC12-06-691 WARD 3
 2. Ordinance No. 10357 relating to real property; dedicating certain City-owned real property as right-of-way; vacating and declaring certain portions of City owned property on North Country Club Road to be surplus, and authorizing the sale thereof to BSH Investments, LLC.; and rescinding Ordinance 10329 dated October 17, 2006; and declaring an emergency.
- F. GRANT APPLICATION: TO THE ARIZONA STATE PARKS BOARD FOR A NATIONAL REGISTER NOMINATION FOR THE JEFFERSON PARK NEIGHBORHOOD AND BARRIO SANTA ROSA
1. Report from City Manager DEC12-06-692 WARDS 3 AND 5
 2. Resolution No. 20527 relating to Urban Planning & Design; approving the Arizona Heritage Fund Grant application for completion of National Register of Historic Places Nominations for the Jefferson Park Neighborhood and Barrio Santa Rosa; and declaring an emergency.
- G. FINANCE: LOAN AGREEMENT WITH THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA TO FINANCE A PORTION OF THE WATER SYSTEM CAPITAL PROGRAM
1. Report from City Manager DEC12-06-681 CITY-WIDE

2. Ordinance No. 10340 relating to finance; authorizing the City of Tucson to borrow up to \$6,500,000 from the Water Infrastructure Finance Authority of Arizona; authorizing the execution and delivery of a loan agreement setting forth the terms of such loan and providing for the repayment thereof; pledging the Net Revenues of the City's Water System to the repayment thereof; and declaring an emergency.
- H. REAL PROPERTY: VACATION AND CONVEYANCE OF SURPLUS PROPERTY LOCATED AT 15TH STREET AND STAR AVENUE TO DRACHMAN DESIGN-BUILD COALITION FOR AFFORDABLE HOUSING
1. Report from City Manager DEC12-06-693 WARD 5
 2. Ordinance No. 10358 relating to real property; vacating and declaring a parcel of City-owned real property located at 15th and Star Avenue to be surplus property; authorizing the conveyance thereof to the Drachman Design-Build Coalition; and declaring an emergency.
- I. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH PIMA COUNTY FOR HOUSEHOLD HAZARDOUS WASTE PROGRAM FUNDING
1. Report from City Manager DEC12-06-694 CITY-WIDE
 2. Resolution No. 20529 relating to Intergovernmental Agreements; authorizing and approving an amendment to the Intergovernmental Agreement between the City of Tucson and Pima County for household hazardous waste program funding; and declaring an emergency.
- J. APPROVAL OF MINUTES
1. Report from City Manager DEC12-06-698 CITY-WIDE
 2. Approval of minutes for the regular meeting of the Mayor and Council held on October 24, 2006.
- K. REAL PROPERTY: APPROVING A LEASE AGREEMENT WITH NEW CINGULAR WIRELESS PCS LLC FOR A WIRELESS CELLULAR ANTENNA AT 35TH STREET AND PANTANO ROAD (TO BE CONTINUED TO THE MEETING OF DECEMBER 19, 2006)
1. Report from City Manager DEC12-06-697 WARD 4

2. Ordinance No. 10354 relating to real property; authorizing and approving the Lease Agreement between the City of Tucson and New Cingular Wireless PCS LLC for a certain portion of right-of-way located at 2445 South Pantano Road, Tucson, Arizona; and declaring an emergency.

Item K was continued to the meeting of December 19, 2006 at request of staff.

L. **BOARDS, COMMITTEES, AND COMMISSIONS: AMENDING THE MEMBERSHIP OF THE DAVIS-MONTHAN AIR FORCE BASE ALTERNATIVE ENERGY SOLUTIONS TASK FORCE**

1. Report from City Manager DEC12-06-700 CITY-WIDE
2. Resolution No. 20531 relating to boards and commissions; amending Resolution No. 20468 to add a member to the Davis-Monthan Air Force Base Alternative Energy Solutions Task Force; and declaring an emergency.

It was moved by Council Member Uhlich duly seconded, that Consent Agenda Items A through L, with the exception of Item K which was continued, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, Uhlich, Scott, Leal, Trasoff;
and Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor West

Consent Agenda Items A through L, with the exception of Item K which was continued until December 19, 2007, were declared passed and adopted by a roll call vote of 6 to 0.

8. PUBLIC HEARING: PROPOSED AMENDMENTS TO THE TUCSON CODE (CHAPTER 27) RELATING TO MISCELLANEOUS WATER FEES

Mayor Walkup announced City Manager's Communication 699, dated December 12, 2006 was received into and made a part of the record. He announced this was the time and place legally advertised for a public hearing on the adoption of proposed changes in miscellaneous water fees. Mayor Walkup stated that before we begin the public hearing, staff would make a brief presentation.

David Modeer, Director of Tucson Water, addressed the Mayor and Council about changes to miscellaneous water fees, a study process conducted every two years per policy of the Mayor and Council. The study analyzed one hundred fifteen existing miscellaneous water fees and three new miscellaneous water fees. Mr. Modeer advised that seventy-nine miscellaneous water fees were proposed to increase, twelve fees would decrease, and twenty-four fees would remain the same.

Mr. Modeer advised that approximately one hundred miscellaneous water fees produce revenue of approximately six to seven million dollars on an annual basis. These fees were developed to recover the cost of direct and support labor, materials, equipment and overhead per Mayor and Council policy to get full cost recovery.

Mr. Modeer said the remaining fees that were not revenue producing were included in the protected water main fee. The protected water main fee was collected and paid to customers when other water customers connect to a water main that had been previously installed by an individual or organization. Over sizing rebates were rebates from Tucson Water to the installer of a pipeline when Tucson Water desires to size a pipeline greater than what was required for the existing need. Additionally, deposits on fire hydrant meters were returned to customers when the fire hydrant meter was returned to Tucson Water undamaged.

Mr. Modeer stated that the fee study and recommendations were brought to the Citizen's Water Advisory Committee on December 6, 2006 and were unanimously approved. He advised that Tucson Water had worked with Southern Arizona Homebuilders Association (SAHBA) in the development of the adjustment to these miscellaneous water fees and if the fees were adopted following this public hearing, the miscellaneous water fees, as recommended, would become effective on January 16, 2007.

Mayor Walkup advised that the public hearing was scheduled to last for no more than one hour and speakers were to please come forward when their name was called.

Lori Lustig with Southern Arizona Homebuilders Association (SABHA) stated that they have no objections to the miscellaneous water fees as presented to Mayor and Council tonight.

Mayor Walkup asked if there was anyone else who wanted to address the Council at this time on this subject.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor West Absent/excused) to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10359 by number and title only.

Ordinance No. 10359 relating to water; amending Tucson Code, Chapter 27, Article I, General Services, Article II, Rates and Charges, and Article V, Backflow Prevention and Cross-connection Control, relating to fees imposed; and declaring an emergency.

It was moved by Council Member Trasoff, duly seconded, to pass and adopt Ordinance 10359.

Mayor Walkup asked if there were any discussion. Upon hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Uhlich, Scott, Trasoff, and
Mayor Walkup

Nay: Council Members Ibarra and Leal

Absent/Excused: Vice Mayor West

Ordinance 10359 was declared passed and adopted by a roll call vote of 4 to 2.

Ms. Detrick asked for a second vote for the purposes of including the emergency clause.

Mayor Walkup asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra , Uhlich, Scott, Leal, Trasoff and
Mayor Walkup

Nay: none

Absent/Excused: Vice Mayor West

Ordinance 10359 was declared passed and adopted by a roll call vote of 6 to 0 with the emergency clause.

9. ELECTIONS: 2007 CITY OF TUCSON ELECTIONS

Mayor Walkup announced City Manager's Communication 695, dated December 12, 2006 was received into and made a part of the record.

Mayor Walkup asked the City Clerk to read Resolution 20530 by number and title only.

Resolution No. 20530 relating to elections: notice to the citizenry by the Mayor and Council of the City of Tucson, Arizona of its intent that the City conduct as mail ballot elections the September 11, 2007 primary election, the November 6, 2007 general election, and any special elections occurring on either of these dates; and declaring an emergency.

Council Member Leal said that they have been confronted with an evolution in polling places where the Federal Government has told them that about seventy-five percent of all of the polling places do not meet American's with Disabilities Act (ADA) requirements. He stated the polling places have changed over time, almost by election in some cases, and it would necessitate coming up with a whole budget to retrofit the moving target of polling places. When confronted with only having twenty-five percent of the polling places remaining, questions arose of how the Voting Rights Act could be honored with regard to all the voters who would not have appropriate or convenient polling places to vote in. He stated that led the Mayor and Council to consider the idea of doing vote by mail. The Mayor and Council voted in April 2006 to take a look at vote by mail. Since then, there was a state ballot and Council Member Leal stated that he was not exactly sure of the similarities and differences. He stated other questions had been raised, and the Mayor and Council needs to discuss how to transition. He wondered how to deal with the Justice Department versus how to deal with the physicality of ADA compliance and how to move forward so access to voting would still be a user friendly issue in the community.

Council Member Leal suggested that because questions have been raised, it would seem appropriate to continue this item for a week and ask the City Clerk to put together a matrix that shows similarities and differences between the state mail ballot item and the City's mail ballot item, along with the costs involved in complying with the Justice Department. He suggested a simple matrix be put together that would give the Mayor and Council enough clarity to know what door they would need to go through for the future. He stated that this discussion was about the intention to maintain and enhance the integrity of democracy in our community.

It was moved by Council Member Leal, duly seconded to continue this item for one week.

Mayor Walkup asked for any discussion.

Council Member Scott asked if early voting would still be available in an all-mail ballot election and if there would be complete lists of eligible voters at available at each polling place.

Kathy Detrick, City Clerk, advised Council Member Scott that early voting would still be available in a all mail ballot election and that information would also be included in the City Clerk's response to the Mayor and Council. Ms. Detrick also advised that any facility used as a polling place on election day would have complete voter registration lists available at the facility.

Council Member Scott asked that the cost be included in the matrix the City Clerk was preparing for each option.

Council Member Trasoff asked Ms. Detrick, if by delaying the Council's decision on the mail ballot election by one week, would that give the Pima County Recorder sufficient time to prepare for an all mail ballot election.

Ms. Detrick responded in the affirmative, that the Pima County Recorder had advised she would need to be informed by December 22, 2006, if her office would need to expand some of the services provided under the mail ballot election option.

Council Member Trasoff also stated that during Study Session the Council discussed, in addition to the mail ballot election, a hybrid election in which there would be five to ten polling places, ADA compliant, in each ward, evenly distributed. Ms. Trasoff asked that this be included in the information that the City Clerk was preparing. Ms. Trasoff commented that half the people who voted against mail ballot elections did so using a mail ballot.

Mayor Walkup asked for any more comments, hearing none, he asked for a voice vote for a one-week extension on this item. Motion carried by a voice vote of 6 to 0 (Vice Mayor West absent/excused).

10. ZONING: (C9-06-18) PEPPER VINER – EVERGREEN AVENUE, SR TO R-2, CITY MANAGER'S REPORT

Mayor Walkup announced City Manager's Communication 696, dated December 12, 2006, and the report from the Zoning Examiner were received into and made a part of the record. This was a request to rezone property located at the southwest corner of Evergreen Avenue and Escalante Road. The Zoning Examiner and Development Services recommend approval subject to certain conditions. He asked if the application or a representative was present and to please state their name and address for the record and if they were agreeable to the proposed requirements.

Chuck Martin, Rick Engineering, stated that they were agreeable to the conditions. Mr. Martin also stated he would like to thank Mr. Peter Gavin, Zoning Examiner, for allowing his hearings to be continued while they worked to provide a plan that would work better for the neighbors. He also thanked Council Member Scott's office for working with the neighbors to find solutions.

Council Member Scott stated that early in the process this particular neighborhood had some serious concerns regarding the visibility of the proposed two story structures at this location. The homebuilder had agreed to limit the possible two story structures on lots to the north where they would not be seen behind the one-story structures. The neighborhood sought help in improving some playground equipment for one of their parks and the homebuilder had graciously agreed to help the neighborhood

with a contribution for playground equipment. The neighborhood also sought to find way to integrate the new subdivision into their existing neighborhood. This had been done with the addition of a connecting sidewalk from Evergreen to the interior pedestrian circulation system within the new subdivision. As a result of the above, at a neighborhood meeting on November 14, 2006, the president of the neighborhood association, Michael Lyman, asked for a show of hands in support of the project. The vote was in favor of supporting the project under the above conditions with only one resident voting against it.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 6 to 0 (Vice Mayor West absent/excused), to approve the request for rezoning as recommended by the Zoning Examiner.

Council Member Scott stated that she would like to acknowledge the very special efforts on the part of Michael and Murphy Lyman and Bill Viner, Pepper Viner Properties, to resolve issues and she was pleased that the neighborhood and the homebuilder were able to find common ground on this project.

11. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 685, dated December 12, 2006 would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Scott, duly seconded, to appoint Millard (Mick) Davidson, resident and Elaine Hill, property owner, to the Fort Lowell Historic Zone Advisory Board. Mayor Walkup asked for any discussion, hearing none, he asked for a roll call vote:

Upon roll call, the results were:

Aye: Council Members Ibarra, Uhlich, Scott, Leal, Trasoff and Mayor Walkup

Nay: none

Absent/Excused: Vice Mayor West

The motion to appoint Millard (Mick) Davidson and Elaine Hill to the Fort Lowell Historic Zone Advisory Board was declared passed and adopted by a roll call vote of 6 to 0.

Mayor Walkup asked if there were any personal appointments to be made. There were none.

12. ADJOURNMENT 7:06 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, December 19, 2006, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 12th day of December 2006, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:lh:bt